

No. XXII.

AN ORDINANCE to authorize Compensation in Colonial Debentures to be made to certain Claimants to Land in the Colony of New Zealand.

LAND CLAIMS.

[18th November, 1846.]

WHEREAS by a Proclamation bearing date the tenth day of Preamble.
October, one thousand eight hundred and forty-four, it was proclaimed and declared that the Queen's right of pre-emption would be waived over limited portions of land in the Colony of New Zealand on certain terms and conditions in the said Proclamation set forth; and it was amongst other things provided that "all transactions with the sellers, all risks attendant on misunderstandings, on sales made improperly, or on incomplete purchases, must be undertaken by the buyers;" and further, that no Crown Grant would be issued in respect of any such land to any person or persons who should be found to have contravened the regulations in such Proclamation contained: And whereas numerous purchases are alleged to have been made from persons of the Native race of lands over which the Queen's right of pre-emption hath been waived in pursuance of the provisions of the said Proclamation, but no Crown Grant of any such land can be safely issued until it shall be ascertained that such alleged purchases have been made from the true Native owners of such land, and that the rights of all persons thereto have been extinguished, and that the terms and conditions prescribed by the said Proclamation have been duly complied with: And whereas due investigation in this behalf cannot be completed without great expense and delay, and the persons claiming to have made such purchases as aforesaid may in some cases be willing to forego all further claims in respect thereof on receiving compensation for their outlay therein:

For the relief of such persons, be it enacted by the Lieutenant-Governor of New Zealand, with the advice and consent of the Legislative Council thereof, as follows:—

1. It shall be lawful for His Excellency the Governor, by warrant under his hand, to appoint a fit person to act as a Commissioner for examining and reporting upon all claims to compensation to be preferred Power to Governor to appoint Commissioners.

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preferred pursuant to the provisions hereinafter contained, and such Commissioner to displace and remove and to appoint another in his place as to the Governor shall seem meet.

Who shall take an oath.

2. Every such Commissioner shall upon his appointment take an oath well and faithfully to execute the office in him reposed by virtue of such appointment, which oath any Justice of the Peace is hereby authorized to administer.

Claims to compensation to be forwarded to the Colonial Secretary.

3. Every person who shall be desirous of taking advantage of the provisions of this Ordinance shall within twelve calendar months after the passing hereof give notice in writing to the Colonial Secretary of his intention so to do, and in such notice shall state the amount of outlay incurred by such claimant in respect of such purchase, or in relation thereto, or in the improvement of such land as hereinafter mentioned.

And to be referred to the Commissioners.

4. Every such claim shall, as soon as conveniently may be, be referred to the Commissioner so to be appointed as aforesaid, who shall proceed with all convenient dispatch to investigate and report upon the same: Provided always that the said Commissioner shall not investigate any such claim as aforesaid unless the person making the same shall have duly complied with the terms and conditions prescribed by the said recited Proclamation, and by the Notice to Land Claimants published in the Government *Gazette* of the fifteenth day of June, one thousand eight hundred and forty-six.

Notice of hearing.

5. It shall be lawful for such Commissioner to notify in the New Zealand Government *Gazette* the day appointed by him for inquiring into any claim, and such notification shall be a sufficient warning to the parties interested therein.

Subjects of inquiry.

6. The said Commissioner shall in every case inquire into and set forth, as far as it shall be possible to ascertain the same,—

- (1.) The price or consideration, with the sterling value thereof, paid to the Native sellers for the land alleged to have been purchased.
- (2.) The amount paid by the claimant (if any) for the deed of conveyance or agreement for purchase and other expenses attending such purchase.
- (3.) The amount of expenses incurred by the claimant in maps plans and surveys.
- (4.) And the outlay (if any) incurred by the claimant in the cultivation or fencing of the land, or in the erection of buildings or other improvements thereon.

Mode of proceeding.

7. In the hearing examining and reporting on any such claims as aforesaid, the said Commissioner shall be guided by the real justice and good conscience of the case, and shall direct himself by the best evidence he can procure or which shall be laid before him.

Commissioner to report.

8. As soon as conveniently may be after hearing any such claim the said Commissioner shall make a report thereof in writing to the Governor, setting forth the name and address of the claimant, the situation and extent of the land alleged to have been purchased, the evidence adduced in proof of the outlay found to have been incurred under the several heads of expenditure hereinbefore mentioned, together with the total amount in respect of such outlay to which the said Commissioner shall find such claimant to be entitled, pursuant to the provisions of this Ordinance.

Debentures to be issued for amount of compensation allowed

9. Upon the confirmation of any such report by the Governor, a notification of such confirmation shall be forthwith published in the New Zealand Government *Gazette*, and the claimant named therein shall be entitled to receive from the Colonial Treasurer a debenture for the amount named in such report. Every such debenture shall bear interest

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interest at the rate of five pounds per centum per annum, and be payable half yearly; the principal of such debentures shall be charged upon and payable out of any revenue arising within the District of Auckland which Her Majesty's Government shall in that behalf direct and appoint, and the interest to accrue due thereon shall be charged upon and payable out of the revenue of Customs to be from time to time raised levied collected and paid at the Port of Auckland.

10. Upon the receipt of any such debenture by the person named therein, all right title interest claim and demand of such person in and to the land in respect of which such debenture shall have been issued shall be extinguished, and so much of such land as shall not be sold to such claimant as hereinafter provided shall thereupon be deemed and taken to become part of the demesne land of the Crown, saving always the rights which may hereafter be substantiated thereto by any person of the Native race.

Claimant's title to land to be extinguished.

11. If any such claimant as aforesaid who shall have entered into occupation or taken actual possession of such land either by cultivating fencing or erecting some buildings on the same before the passing of this Ordinance shall be desirous of purchasing the whole or any part thereof, and shall signify such his desire to the Colonial Secretary in writing at any time within three calendar months after the passing hereof, it shall be lawful for His Excellency the Governor to effect a sale of the land to such claimant by private contract at the rate of one pound per acre: Provided always that in every such purchase the claimant shall be allowed credit for the amount found to have been paid by him under the first three heads of expenditure as hereinbefore mentioned, and that in addition thereto such claimant shall not in any case be required to pay any greater sum than at the rate of ten shillings an acre.

Land in certain cases may be sold by private contract.

12. In case such claimant shall be desirous of purchasing the whole of the land claimed by him as aforesaid, it shall not be necessary for the said Commissioner to inquire the costs incurred in the purchase of such land, or in effecting improvements thereon, as hereinbefore provided.

Claimant may purchase the whole of his land in certain cases.

13. In case of any such sale as aforesaid the debenture so issued to such claimant shall be received by the Colonial Treasurer as cash in or towards payment for any land so to be purchased by such claimant; and in case the amount of the debenture tendered in payment for such land shall exceed the amount for which the same shall have been sold, the person tendering such debenture shall be entitled to a new debenture for the amount of the balance.

Debentures to be received as cash in certain cases.

14. And whereas by the terms of the said recited Proclamation, and also by the terms of a Proclamation bearing date twenty-sixth March, one thousand eight hundred and forty-four, it was provided that one-tenth part of the land so to be purchased should be set apart for public purposes: And whereas such reservations cannot in many cases be conveniently made: Be it enacted that it shall also be lawful for the Governor on such application to be made within three calendar months from the passing hereof by the claimant for that purpose as aforesaid, to effect a sale thereof to him by private contract at the rate of one pound an acre: Provided always that the purchase money for any such land shall not be paid for by any such debenture but in cash only.

Claimant to pay £1 in cash in lieu of reserved tenths.

15. For the purposes of this Ordinance the word "Governor" shall be taken to include the Lieutenant-Governor or the Officer Administering the Government of the Colony for the time being.

Interpretation.